

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2004/002901

International filing date (day/month/year)
02.02.2004

Priority date (day/month/year)
05.02.2003

International Patent Classification (IPC) or both national classification and IPC
H04N7/173

Applicant
ICTV, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

10/544131

International application No.
PCT/US2004/002901

JC20 Rec'd PCT/PTO 02 AUG 2005

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/002901

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-30
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-30
Industrial applicability (IA)	Yes: Claims	1-30
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

- 1 The following document is referred to in this communication:

D1 : WO 97/39583 A (BELLSOUTH CORP) 23 October 1997 (1997-10-23)
D2 : US 2002/095689 A1 (NOVAK ROBERT E) 18 July 2002 (2002-07-18)
D3 : WO 99/56468 A (BELLSOUTH INTELLECT PTY CORP) 4 November 1999
(1999-11-04)

- 2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 does not involve an inventive step in the sense of Article 33(3) PCT.

- 2.1 The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (with the wording of the claim, the references in parenthesis applying to this document):

A device for use in an interactive cable television system, the device comprising: a hardware peripheral device in communication with a computer network (figure 5a), for communicating data from a user via the computer network to a cable television network head end to control a television information signal (page 3, lines 17-23 and page 17, lines 14-16) provided over a cable television network cable connected directly to a cable ready television at the user premises (page 2, lines 26-27).

- 2.2 The subject-matter of claim 1 therefore differs from this known device in that the device is coupled to a computer modem at a user premises.

It is however generally known to the person skilled in the art that a modem is an equivalent to the network connection card of document D1 to put in communication the device with a computer network and can be interchanged with that feature where circumstances make it desirable.

- 3 Since the subject-matter of each of independent claims 7, 13, 19, 25 corresponds to the subject matter of claim 1, the same reasoning as given for claim 1 will apply mutatis mutandis. Therefore claims 7, 13, 19, 25 also do not meet the requirements of the PCT in respect of inventive step (Article 33(2) and (3) PCT).

- 4 Dependent claims 2-6, 8-12, 14-18, 20-24, 26-30 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(2) and (3) PCT).
- 4.1 Claims 2, 3, 8, 9, 14, 15, 20, 21, 26 and 27 are disclosed in document D1 (page 25, lines 29-35).
- 4.2 Regarding claims 4, 10, 16, 22 and 28, their additional features (using an infrared link for data reception, respectively data transmission) are a commonly known design option in consumer electronics, in order to use a single remote control, respectively to interface devices (see for example document D2, paragraphs 66-68).
- 4.3 Regarding claims 5, 11, 17, 23 and 29, it is generally known to the person skilled in the art that a radio frequency link is an equivalent to the infrared link of document D2 and can be interchanged with that feature where circumstances make it desirable.
- 4.4 Regarding claims 6, 12, 18, 24 and 30, the skilled person would regard as a normal design option to include a status indicator in the device described in document D1.
- 5 Further remarks
- 5.1 Although claims 1 and 19, respectively claims 13 and 25, have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.
- 5.2 The vague and imprecise statement in the description on page 9 implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.
- 5.3 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1, D2 and D3 is not mentioned in the description, nor are these documents identified therein.
- 5.4 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).